

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

109-2

CRM-219-2024 in/&
CRR(F)-7-2024 (O&M)

Date of decision:12.03.2024

Vishal Singh

....Petitioner

V/s

Manisha Rani and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Dr. Sumati Jund, Advocate for the petitioner.

Mr. Vikas S. Chawra, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

CRM-219-2024

1. The present application has been filed on behalf of the applicant-husband for condonation of 211 days delay in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 10.03.2023 passed by learned Additional Principal Judge, Family Court, Gurugram, whereby defence of the applicant-petitioner has been struck off.
2. Learned counsel for the applicant-petition, while seeking grant of prayer for condonation of delay of 211 days, has argued that the delay has occurred as the applicant-petitioner has no legal knowledge about the filing of such petition. Learned counsel for the applicant-petitioner has further argued that the circumstances of the case indicate that the delay in filing the revision petition is neither intentional nor deliberate & hence delay deserves to be condoned.

3. Learned counsel for the respondents submits that delay is enormous, no explanation has been furnished for condonation of such delay & the delayed filing of the main petition is aimed at somehow avoiding to pay maintenance amount to the respondents.

4. I have heard learned counsel for the applicant-petitioner and have perused the paper-book.

5. It would be apposite to refer herein to a judgment of this Court passed in **CRR(F)-1844-2023** titled as **Deepak vs. Noori and another**, decided on 29.02.2024; relevant whereof reads as under:-

“8. As a sequel to above-said discussion, the following principles of law emerge:

(I) A liberal approach, undoubtedly, ought to be accorded to a plea for condonation of delay made under Section 5 of The Limitation Act, 1963 so as to further the cause of substantial justice. The concept of substantial justice essentially includes in itself the desirability of adjudication of a claim of the litigant on merits thereof rather than rejection of the same, at the threshold, on account of being barred by limitation. However, adoption of such liberal approach cannot be stretched to mean that a prayer (for condonation of delay) ought to be granted sans reasonable explanation therefor. An applicant (seeking condonation of delay) has to bring forward cogent, credible and lucid reason(s) to substantiate such a plea. In case such reason(s) is not scrutable, a Court would well be within its discretion to decline such plea (for condonation of delay). In other words, inexplicable delay ought not to be condoned.

(II) A Court ought to grant an application seeking condonation of delay when no negligence, inaction or want of bona fide is imputable to such applicant and/or such delay has occurred on account of circumstances beyond reasonable control of such applicant.

(III) It is not the length of delay (sought to be condoned) but explanation thereof which is relevant for consideration by a Court.

(IV) Law of limitation does not require an applicant (seeking condonation of delay) to furnish an exhaustive explanation on ‘day to-day basis’ for such delay. A Court while dealing with a plea for condonation of delay need not undertake such a pedantic approach.

(V) *In appropriate cases, a Court may consider imposing costs while granting an application for condonation of delay. However, the quantification of costs so imposed, must reflect the same being commensurate to the lis in issue as also attending circumstances therein.*

(VI) *The factum; of non-applicant(s) or even strangers having altered their position(s) relying upon the applicant not having filed an appeal/revision etc. within stipulated time and resultant effects thereof; will indubitably be a pertinent factor for consideration of a plea for condonation of delay.*

(VII) *A plea for condonation of delay by the State as also its instrumentalities has to be accorded a more liberal approach since the machinery involved in their working is impersonal in nature & hidden factors working therein cannot be given a complete amiss.*

(VIII) *The discretion of a Court, while considering a plea for condonation of delay, will be exercised in view of peculiar facts/circumstances of an individual case. It is neither prudent nor feasible to fix any exhaustive guidelines for exercising such judicial discretion. On the contrary, it would be perilous to lay down such general criteria for governing such discretion. Needless to emphasize that exercise of such judicial discretion/power ought to be within the four corners of well settled principles of justice, good conscience and fair play.*

6. Condonation of delay of 211 days in filing the accompanying revision petition is sought for on the following relevant averments:

“2. *That there is delay of 211 days in filing the accompanying Revision Petition. The above said delay has occurred as the Applicant/Petitioner had no legal knowledge about the filing of the Revision Petition before this Hon'ble Court.*

3. *That upon learning about this fact, the Applicant/Revisionist engaged the present counsel without any further delay and thereafter, took some time in gathering the requisite documents as well.*

4. *That the above mentioned delay of 211 days in filing is neither Intentional nor willful but has occurred on account of the facts mentioned herein above.”*

7. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant (herein) to condone the delay of 211 days in filing the accompanying

8. The application (CRM-219-2024) seeking condonation of 211 days in filing the revision petition is dismissed. Since the application seeking condonation of delay has been dismissed, the main revision petition stands dismissed as well accordingly.

(SUMEET GOEL)
JUDGE

Ajay

Whether reportable:	Yes/No
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